

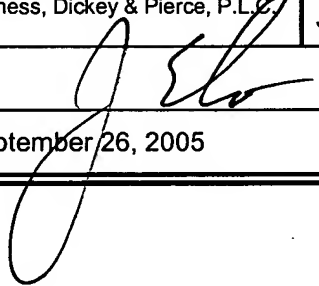
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HDP/SB/21 based on PTO/SB/21 (08-00)

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<b>PTO</b> <b>SEP 26 2005</b> <b>PATENT &amp; TRADEMARK OFFICE</b> <b>TRANSMITTAL FORM</b> (to be used for correspondence after initial filing)	Application Number	10/733,414
	Filing Date	December 12, 2003
	Inventor(s)	Caitlyn CURTIN
	Group Art Unit	3749
	Examiner Name	Stephen Michael Gravini
	Attorney Docket Number	3681-000001/US

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Letter to the Official Draftsperson and _____ Sheets of Formal Drawing(s)	<input type="checkbox"/> LETTER SUBMITTING APPEAL BRIEF AND APPEAL BRIEF (w/clean version of pending claims)
<input type="checkbox"/> Amendment	<input type="checkbox"/> Licensing-related Papers	<input checked="" type="checkbox"/> Appeal Communication to Group (Notice of Appeal, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name John E. Curtin	Reg. No. 37,602
Signature			
Date	September 26, 2005		

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**FEE TRANSMITTAL  
for FY 2005**

Effective 10/01/2004. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 250.00**Complete if Known**

Application Number	10/733,414
Filing Date	December 12, 2003
First Named Inventor	Caitlyn CURTIN
Examiner Name	Stephen Michael Gravini
Art Unit	3749
Attorney Docket No.	3681-000001/US

**METHOD OF PAYMENT (check all that apply)**☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit  
Account  
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08-0750

Deposit  
Account  
Name

Harness, Dickey &amp; Pierce, PLC

**The Director is authorized to: (check all that apply)**
☐ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.
**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1011	300	2011	150	Utility filing fee	
1012	200	2012	100	Design filing fee	
1013	200	2013	100	Plant filing fee	
1014	300	2014	150	Reissue filing fee	
1005	200	2005	100	Provisional filing fee	

**SUBTOTAL (1)**

(\$) 0

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims		-20 **	=	0	X		=	0
Independent Claims		-3 **	=	0	X		=	0
Multiple Dependent			=				=	0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	50	2202	25	Claims in excess of 20
1201	200	2201	100	Independent claims in excess of 3
1203	360	2203	180	Multiple dependent claim, if not paid
1204	200	2204	100	** Reissue independent claims over original patent
1205	50	2205	25	** Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2)**

(\$) 0

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	250
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1000	2403	500	Request for oral hearing	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1500	2453	750	Petition to revive - unintentional	
1501	1400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** (\$) 250.00**4. SEARCH/EXAMINATION FEES**

1111	500	2111	250	Utility Search Fee	
1112	100	2112	50	Design Search Fee	
1113	300	2113	150	Plant Search Fee	
1114	500	2114	250	Reissue Search Fee	
1311	200	2311	100	Utility Examination Fee	
1312	130	2312	65	Design Examination Fee	
1313	160	2313	80	Plant Examination Fee	
1314	600	2314	300	Reissue Examination Fee	

**SUBTOTAL (4)** (\$) 0**SUBMITTED BY**

Name (Print/Type)	John E. Curtin	Registration No. (Attorney/Agent)	37,602	Telephone	(703) 668-8000
Signature				Date	September 26, 2005

Complete (if applicable)

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**IN THE U.S. PATENT AND TRADEMARK OFFICE**

Appellant: Caitlyn CURTIN

Application No.: 10/733,414

Art Unit: 3749

Filed: December 12, 2003

Examiner: Stephen Michael Gravini

For: HANDS-FREE HAIR AND BODY DRYER THAT  
ALLOWS A WIDE RANGE OF MOTION

Attorney Docket No.: 3681-000001/US

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**APPELLANT'S BRIEF ON APPEAL**

Date: September 26, 2005  
(Sunday=September 25, 2005)

**MAIL STOP APPEAL BRIEF - PATENTS**

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Randolph Building  
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Alexandria, VA 22314



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## **APPELLANTS' BRIEF ON APPEAL**

### **I. REAL PARTY IN INTEREST:**

The real party in interest in this appeal is Caitlyn Curtin.

### **II. RELATED APPEALS AND INTERFERENCES:**

There are no known appeals or interferences that will affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

### **III. STATUS OF CLAIMS:**

Claims 1-14 are pending in the application, with claim 1 being written in independent form.

Claims 1-3, 5-6, 8 and 13-14 remain finally rejected under 35 U.S.C. §102(b) and claims 4, 7, 9-10, 11 and 12 remain finally rejected under 35 U.S.C. §103(a). Claims 1-14 are being appealed.

### **IV. STATUS OF AMENDMENTS:**

A Request for Reconsideration was filed on July 25, 2005. No Advisory Action has been received to date.

### **V. SUMMARY OF CLAIMED SUBJECT MATTER:**

#### **(i.) Overview of the Subject Matter of the Independent Claims**

It is desirable to provide a hands-free hair and body dryer which allows a person a wide range of motion yet still manages to dry the hair or skin.

Referring now to FIG. 1, (Appendix B) there is shown a hair and body dryer 1 comprising elevation and securing means 4 (collectively referred to as "securing means"), first movement means 2, second movement means 3, power supply means 7, control means 6 and air diffuser means 5, among other elements.

Advantageously, the first movement means 2 allows the dryer 1, in particular the outer circumference 8 of the diffuser means 5, to be moved left, right, up or down in order to position the diffuser 5 over different parts of the surface of a person's head or body. The first movement means 2 may comprise a pivoting mechanism 2a or the like to move the dryer 1 to a desired position.

To further position the diffuser 5, second movement means 3 may also be incorporated. The second movement means 3 may also comprise a pivoting mechanism 3a to further allow the dryer 1 and diffuser 5 to be positioned over different parts of the surface of the head and body (see specification p. 2).

The first and second movement means 2, 2a, and 3, 3a are operable to move the dryer 1 over a wide range of angles, for example, 0 to 35 degrees, 0 to 90 degrees, 0 to 180 degrees or even 0 to 360 degrees. These ranges are by way of example only. Other ranges are also possible, e.g., some range that covers less than 0 to 35 degrees. With this wide range of angles, the dryer 1 is capable of drying the surface of the hair and skin of a person as that person moves through a wide range of angles as he or she, for example, is dressing or putting on makeup. In comparison, though some existing commercial hair dryers are capable of moving in a side-to-side or up and down direction, they are not capable of moving over a wide range of angles, as is the dryer 1 of the present invention (see specification pp. 2-3).

**(ii.) Additional Text from the Specification in Support of the Claims**

Hair dryers have existed for a number of years. Existing hair dryers used in the home are held by the hand and moved over the surface of a person's hair or skin to allow warm air exiting the dryer to dry the hair or skin.

An aging population finds it increasingly difficult to hold anything by hand, much less in a way necessary to effectively dry hair or skin. That is, it is sometimes difficult to hold existing dryers steady for the period of time needed to dry the hair or skin.

Regardless of age, it is many times inconvenient for someone who is dressing to use one or both hands to hold a hair dryer. For example, ladies desire to put on makeup and men desire to fix their ties, both of which may require two hands.

Accordingly, it is desirable to provide a way to dry the hair or skin without the need to hold a hair dryer while a person is engaged in another action or activity.

Hands-free commercial dryers are available. However, these are too expensive for the average household and usually require a person to place her head under and/or into such a dryer while remaining relatively motionless. Motion, however is just what occurs when a person rushes to get dressed (see specification p. 1).

It is, therefore, further desirable to provide a hands-free hair and body dryer which allows a person a wide range of motion yet still manages to dry the hair or skin.

Referring again to FIG. 1, (Appendix B) there is shown a hair and body dryer 1 comprising elevation and securing means 4 (collectively referred to as "securing means"), first movement means 2, second movement means 3, power supply means 7, control means 6 and air diffuser means 5, among other elements.

Advantageously, the first movement means 2 allows the dryer 1, in particular the outer circumference 8 of the diffuser means 5, to be moved left, right, up or down in order to position the diffuser 5 over different parts of the surface of a person's head or body. The first movement means 2 may comprise a pivoting mechanism 2a or the like to move the dryer 1 to a desired position.

To further position the diffuser 5, second movement means 3 may also be incorporated. The second movement means 3 may also comprise a pivoting mechanism 3a to further allow the dryer 1 and diffuser 5 to be positioned over different parts of the surface of the head and body (see specification p. 2).

The first and second movement means 2, 2a, and 3, 3a are operable to move the dryer 1 over a wide range of angles, for example, 0 to 35 degrees, 0 to 90 degrees, 0 to 180 degrees or even 0 to 360 degrees. These ranges are by way of example only. Other ranges are also possible, e.g., some range that covers less than 0 to 35 degrees. With this wide range of angles, the dryer 1 is capable of drying the surface of the hair and skin of a person as that person moves through a wide range of angles as he or she, for example, is dressing or putting on makeup. In comparison, though some existing commercial hair dryers are capable of moving in a side-to-side or up and down direction, they are not capable of moving over a wide range of angles, as is the dryer 1 of the present invention (see specification pp. 2-3).

Though nothing prevents a user from touching both movement means 2, 2a and 3, 3a, in one embodiment of the invention the movement of these means (and therefore the position of the diffuser 5) is controlled without the need for such contact or access by a user (discussed below).

The body and component parts of the dryer 1 may comprise a lightweight material making the overall weight of the dryer 1 capable of being held by hand if desirable by a user.

FIG. 1 also shows removable securing means 4 for securing the dryer 1 to another object, such as a chair, pole, etc., for support. The securing means



4 may comprise a heavy-duty plastic clip, or a combination of a receptacle and main pole which allows the dryer 1 to move up and down in a vertical motion in order to raise the height of the dryer 1, to name just a few examples.

In an alternative embodiment, the base 4a of the dryer 1 may be weighted to allow the dryer to stand independently (i.e., without the need to be attached to a pole, chair, etc.) while the dryer 1 oscillates through a wide range of angles.

Also shown is control means 6. Control means 6 may comprise a removable or built-in remote control for controlling the power on/off functions of the dryer 1, and/or controlling the initiation, cessation and positioning of the movement means 2, 2a and 3, 3a (see specification p. 3). In more detail, control means 6 may comprise circuitry or the like which is programmed (or programmable) to send instructions to both movement means 2, 2a, 3, 3a that result in an associated movement of lower body 2b of the dryer 1 or upper body 3b of the dryer 1 through a wide range of angles. Each movement of lower or upper body 2b, 3b results in a new position of diffuser 5 over a person's head or body.

In addition, the control means 6 may comprise an infrared or radio frequency transceiver for detecting the presence or absence of a user, i.e., whether a user remains close enough to the dryer 1 so that the dryer 1 remains on. For example, if a person walks a far enough distance away from the dryer 1, the control means 6 may detect such movement and send a signal to the power source of the dryer 1 in order to shut the dryer off.

In addition, the control means 6 may comprise a timer which, regardless of the movement of a user, will track the amount of time the dryer 1 has been operating and automatically shut the dryer off if it exceeds a certain threshold (e.g., 15 minutes).

The dryer 1 may be operated with AC or DC power supplies which are a part of the power supply means 7. The power supply means 7 may also

comprise a retractable power cord which is capable of changing its length as the dryer 1 moves from side to side, or up or down as the case may be. It is also capable of retracting entirely if it is to be disconnected from its present power source and moved to a different location.

Though not shown in FIG. 1, the dryer 1 may also comprise a mirror placed on its surface to allow a user to view the top, back or sides of the head or body (sometimes in conjunction with a second mirror) (see specification, p. 4).

Referring now to FIG. 2, (Appendix C) there is shown another embodiment of the present invention. The dryer 10 shown in FIG. 2 adds a muffling means 9 which may comprise a baffling structure 12 made of a heat tolerant or heat resistant material capable of withstanding the temperatures of the air which exits from the air diffuser 5. This muffler means 9 is capable of being detached completely or switched into and out of the path of the air exiting the diffuser 5 by means of optional hinging means 11 or the like. The purpose of the baffling structure 12 is to reduce the noise which results from the air leaving the air diffuser 5 or from the motor (not shown in FIG. 2) used to operate the dryer 10. Such noise may interfere with the ability of a user to hear a phone or doorbell ring.

In yet an additional embodiment of the present invention, the muffler means 9 may be made of a heat sensitive material which is capable of changing color depending on the temperature of the material. For example, the material may change from a darker color to a lighter color when the temperature of the material reaches a certain threshold. This color change may act as a warning to a user of the dryer 10 that the temperature of the muffler 9 is reaching a dangerous level and should be removed.

In still another embodiment of the present invention, the control means 6 contains sensors and appropriate circuitry to measure the internal temperature of the dryer 1 including the muffler 9 in order to determine whether to

disconnect the dryer 1 from its power supply 7 in order to meet United Laboratories specifications or the like and to prevent the dryer 10 from malfunctioning or catching fire (see specification p. 5).

Appellant respectfully notes that the above summary of the invention, including any indication of reference numerals, drawings, figures, paragraphs, page numbers, etc. (collectively referred to as "descriptions" of the application) have been provided solely to comply with the U.S. Patent and Trademark Office's rules concerning the appeal of the claims of the present application. As such, the descriptions above are merely exemplary and should not be construed to limit the claims of the present application in any way whatsoever.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED:**

Appellant seeks the Board's review of the rejection of claims 1-3, 5-6, 8 and 13-14 under 35 U.S.C. §102(b) and claims 4, 7, 9-10, 11 and 12 under 35 U.S.C. §103(a).

## **VII. ISSUES ON APPEAL:**

(i.) Whether claims 1-3, 5, 6, 8, 13 and 14 are anticipated by U.S. Patent No. 5,822,870 to Jones ("Jones")?

(ii.) Whether claim 4 is rendered obvious by the combination of Jones in view of U.S. Patent No. 6,038,786 to Aisenberg (Aisenberg")?

(iii.) Whether claims 7 and 9-10 is rendered obvious over Jones in combination with the Examiner's personal knowledge?

(iv.) Whether claims 11 is rendered obvious over Jones in view of U.S. Patent No. 5,970,622 to Bahman ("Bahman")?

(v.) Whether claim 12 is rendered obvious over Jones in view of U.S. Patent No. 5,857m265 to Chan ("Chan")?

## **VIII. ARGUMENTS:**

### **The Section 102 Rejections**

Claims 1-3, 5-6, 8 and 13-14 were rejected under 35 U.S.C. §102(b) as being anticipated by Jones. Appellant respectfully disagrees.

Claim 1, on which the remaining claims depend, includes, among other things, "a diffuser for allowing air to exit or to dry a surface of a user's body." In contrast, Jones discloses a dryer for a motor vehicle and is wholly unrelated to drying a surface of a user's body, as in claims 1-3, 5-6, 8 and 13-14 of the present invention.

Appellant notes the Examiner's comments in the Response to Arguments section of the Final Office Action beginning on page 4. In these comments, the Examiner states that "the teachings of the primary reference are capable of performing the intended use step since the disclosed dryer [presumably the one in Jones] can be used to dry a surface of a user's body" (word in brackets added).

Candidly, Appellant and her attorney find this statement to be straining credulity. It is respectfully submitted that the dryer disclosed in Jones which is exclusively used to dry a motor vehicle, cannot safely be used to dry a person's body. In addition, it is respectfully submitted that one of ordinary skill in the art upon reading Jones would never think of using the dryer disclosed in Jones to dry a surface of a user's body.

Appellant also points out that Jones itself states that the "operator of the vehicle is typically inside the vehicle during the washing and drying processes" (column 4, lines 43-46). Therefore, Appellant respectfully submits that it is next to impossible for the dryer in Jones to dry the surface of a person's body when the person is inside the vehicle. Nowhere in Jones is it disclosed or even suggested that the surface of a person's body is dried.

Appellant also notes that each of the rejected claims of the present invention requires movement means for moving a diffuser over a wide range of

angles in order to dry different parts of a surface. Jones does not disclose or suggest such a movement means. In fact, Jones teaches away from the use of such a movement means. At least in column 6, lines 43-55, Jones discusses the so-called "Coanda effect." Jones notes that prior art driers included side nozzles that were oscillated "over a very wide arcuate range." Jones goes on to say that "however, the inventors herein have discovered that the oscillation of the side nozzles should be limited to much narrower arcuate range." Thus, Jones teaches away from using movement means to move a diffuser over a wide range of angles.

Because Jones does not disclose each and every feature of the present invention, Jones cannot anticipate claims 1-3, 5-6, 8 and 13-14.

Accordingly, Appellant respectfully requests that the members of the Board reverse the decision of the Examiner and allow claims 1-3, 5-6, 8 and 13-14.

### **The Section 103 Rejections**

#### **(i) The Section 103 Rejection of Claim 4**

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Jones in view of to Aisenberg. Appellant respectfully disagrees.

As admitted in the Office Action, Jones fails to disclose or suggest a control means which comprises a transceiver for detecting the presence or absence of a user as in claim 4 of the present invention.

In addition, Appellant respectfully submits that Aisenberg does not overcome the deficiencies in Jones as described above.

Accordingly, Appellant respectfully submits that claim 4 is patentable over Jones and Aisenberg for the reasons stated above with respect to claims 1-3, 5-6, 8, and 13-14, and in addition, for the reasons set forth in the Office Action.

Appellant also submits that the combination of Jones and Aisenberg is improper because in order to combine Jones and Aisenberg one or both of these references would have to be modified in such a way that one or both of these references' intended purposes would be rendered unsatisfactory and/or one or both of these references' principles of operation would have to change.

As indicated above, Jones is aimed at a dryer for a motor vehicle while Aisenberg is aimed at a wall-mounted hand dryer. Either Jones's motor vehicle dryer would have to be modified to work as a hand dryer or Aisenberg's hand dryer would have to be modified to work as a motor vehicle dryer. In any case, such a modification would render Jones and/or Aisenberg unsatisfactory for their intended purposes or require Jones or Aisenberg's principles of operation to be modified; both are impermissible (see MPEP 2143.01).

Accordingly, Appellant respectfully requests that the members of the Board reverse the rejection of claim 4 and allow it to issue.

**(ii.) The Section 103 Rejections of Claims 7 and 9-10**

Claims 7 and 9-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Jones in combination with the Examiner's personal knowledge. Appellant respectfully disagrees.

Initially, Appellant notes that claims 7, 9 and 10 depend from claim 1 and are, therefore, patentable over Jones for the reasons set forth above with respect to claim 1.

In addition, Appellant believes that the Examiner's rationale for concluding that the subject matter of claims 7, 9 and 10 is an obvious design choice in rejecting these claims based on obviousness is impermissible.

Appellant notes that it raised this issue in its last response. In the most recent Final Office Action, the Examiner states that he has "modified the second obviousness rejection to more clearly show the design choice obviousness consideration and not address examiner's personal experience as asserted by applicant." However, in the obviousness rejection of claims 7, 9

and 10, the Examiner states "it would have been an obvious matter of design choice to provide any type of construction material, since the applicant has not patently distinguished those types of claimed construction material from those found in the prior art cited in this action...".

Appellant respectfully submits that this is simply a rewording of the Examiner's previous rejection. That is, the Examiner has not set forth a basis which would motivate one of ordinary skill in the art to combine the Jones reference with the prior art (unnamed by the Examiner) to arrive at the subject matter of claims 7, 9 and 10 of the present invention. As indicated above with respect to claim 4, Appellant respectfully submits that one of ordinary skill in the art would not have been motivated to combine a dryer which is used to dry automobiles with any prior art aimed at drying a user's body.

Absent the motivation to combine Jones with the unnamed prior art, Appellant respectfully submits that the present rejections are impermissible and should be reversed.

Accordingly, Appellant respectfully requests the members of the Board to reverse the decision of the Examiner and allow claims 7, 9 and 10.

**(iii.) The Section 103 Rejection of Claim 11**

Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Jones in view of Bahman. Appellant respectfully disagrees.

Initially, Appellant notes that claim 11 depends from claim 1 and is therefore patentable over the combination of Jones and Bahman for at least the reasons set forth above with respect to claim 1 because Bahman does nothing to overcome the deficiencies of Jones.

In addition, Appellant notes that the combination of Jones and Bahman is improper. As indicated above, Jones is directed at a dryer for a motor vehicle while Bahman is directed at a dryer for styling hair using both hands. As such the combination of Jones and Bahman would require that the principles of operation for either Jones or Bahman or both would have to be

changed. This is impermissible (see MPEP 2143.01). In addition, if one or both of the principles of operation of Jones and Bahman were modified, this would render either Jones or Bahman unsatisfactory for their intended purposes. Again, this is impermissible (see MPEP 2143.01).

Appellant notes the statement made by the Examiner in the most recent Final Office Action where it is stated that "it would have been obvious to one of ordinary skill in the art to combine the teaching of Jones with that of Bahman." Appellant respectfully disagrees. Again, it strains credulity to believe that one of ordinary skill in the art would combine an industrial dryer used to dry automobiles with any dryer, be it Bahman or any other dryer, which is used to dry the surface of a person's body.

Accordingly, Appellant respectfully requests the members of the Board to reverse the Examiner and allow claim 11.

**(iv.) The Section 103 Rejection of Claim 12**

Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Jones in view of U.S. Patent No. 5,857,263 to Chan ("Chan"). Appellant respectfully disagrees and traverses this rejection for at least the following reasons.

Initially, Appellant notes that claim 12 depends from claim 1 and is therefore patentable over the combination of Jones and Chan for the reasons set forth above with respect to claim 1 because Chan does nothing to overcome the deficiencies in Jones.

In addition, Appellant respectfully submits that the combination of Jones and Chan is improper. Again, Jones is directed at a dryer for a motor vehicle while Chan is directed at a conventional hand-held dryer. The combination of Jones and Chan requires that the principle of operation of either Jones or Chan or both be modified. This is impermissible (see MPEP 2143.01). In addition, if such modifications were made, they would render either Jones or



APPELLANTS' BRIEF ON APPEAL  
U.S. Application No.: 10/733,414  
Atty. Docket: 3681-000001/US

Chan or both unsatisfactory for their intended purposes. Again, this is impermissible (see MPEP 2143.01).

Accordingly, Appellants respectfully request that the members of the Board reverse the decision of the Examiner and allow claim 12.

**IX. CONCLUSION:**

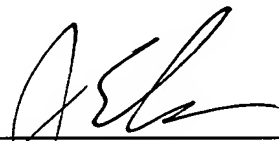
Appellants respectfully request that the Board reverse the Examiner's rejections of claims 1-14 and allow each of these claims.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By:

  
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**APPENDIX A**

**Claims 1-14 on Appeal:**

1. (Previously Presented) A dryer comprising:  
a diffuser for allowing air to exit in order to dry a surface of a user's  
body;

movement means for moving the diffuser over a wide range of angles in  
order to dry different parts of the surface; and

control means for sending instructions to the movement means in order  
to control the movement of the movement means over the wide range of angles.

2. (Original) The dryer as in claim 1 further comprising securing  
means for securing the dryer to an object for support.

3. (Original) The dryer as in claim 1 wherein the wide range of  
angles comprises a range selected from the group consisting of 0 to 35 degrees,  
0 to 90 degrees, 0 to 180 degrees, 0 to 360 degrees.

4. (Original) The dryer as in claim 1 wherein the control means  
further comprises a transceiver for detecting the presence or absence of a user.

5. (Original) The dryer as in claim 1 wherein the control means is  
preprogrammed to control movement of the movement means through the wide  
range of angles.

6. (Original) The dryer as in claim 1 wherein the control means  
comprises programmable control means for controlling the movement of the  
movement means through the wide range of angles.

7. (Original) The dryer as in claim 1 wherein the dryer is made of a lightweight material.

8. (Original) The dryer as in claim 1 further comprising muffler means for reducing noise made by the dryer.

9. (Original) The dryer as in claim 8 wherein the muffler means is made of a heat sensitive material.

10. (Original) The dryer as in claim 8 wherein the muffler means is made of a heat resistant or heat tolerant material.

11. (Previously Presented) The dryer as in claim 1 wherein the control means further comprises a removable remote control.

12. (Original) The dryer as in claim 1 further comprising a retractable power cord.

13. (Original) The dryer as in claim 1 wherein the control means further comprise a timer for determining how long the dryer has been operating.

14. (Original) The dryer as in claim 1 wherein the control means is operable to send the instructions to the movement means without the need for a user to access the control means.



FIG. 1

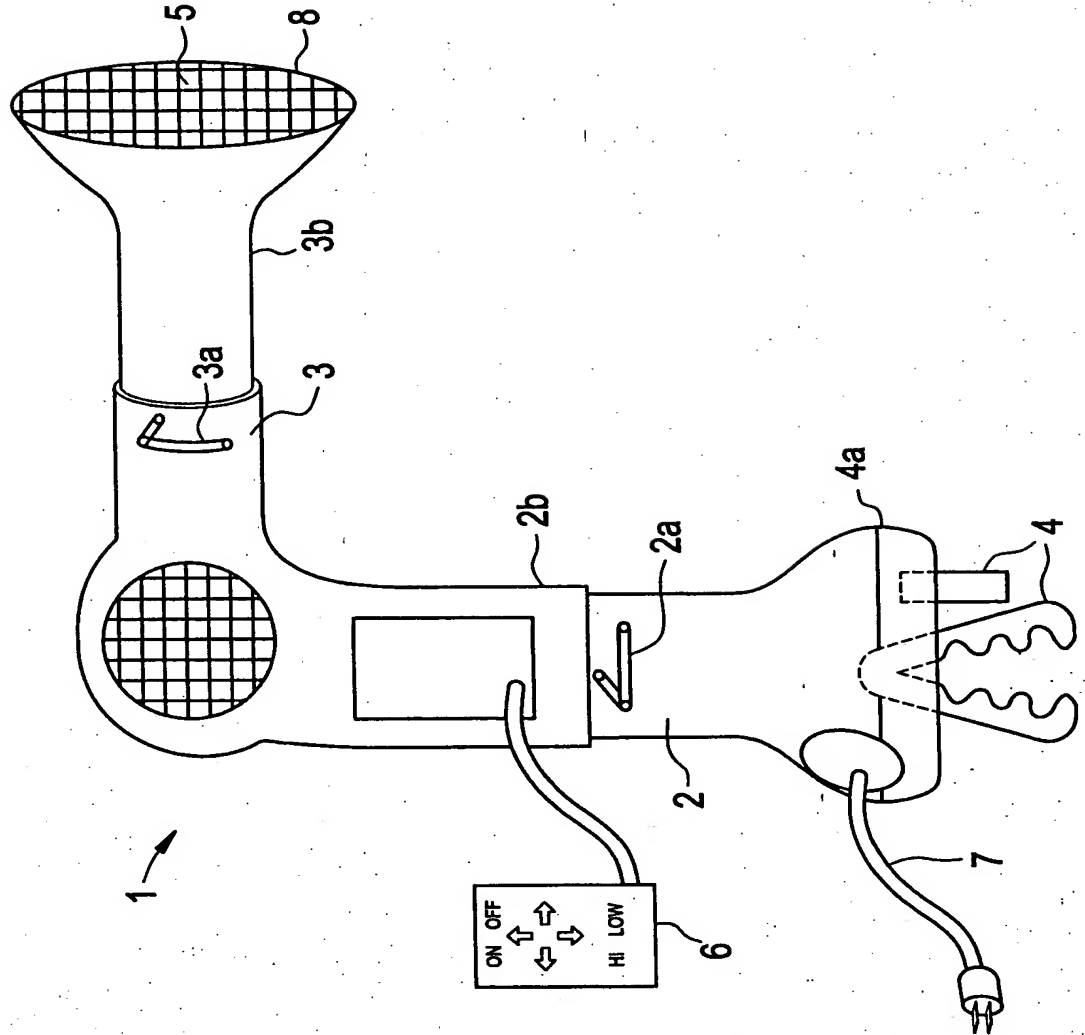




FIG. 2

